HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 5544 of 2001 (MS)

Pramod Kumar ..... Petitioner

Versus

District Magistrate & others ..... Respondents

Sri Gopal K. Verma, Advocate for the petitioner
Standing Counsel for the respondents.

Dated:- 25.9.2004

Hon. Rajesh Tandon J.

Heard the learned counsel for the parties.

By the present writ petition the petitioner has prayed for a writ of mandamus directing the respondents to issue a gun licence to the petitioner.

Briefly stated that the petitioner has applied for a gun licence on 18.5.1999 after the murder of his father on 1.1.1999. F.I.R. of the incident under section 302/34 I.P.C. was registered by the elder brother of the petitioner at Ramnagar Police Station. On 12.10.2001, this Court has given the following directions:

"In the counter affidavit cause shall be shown as to why gun licence is not being issued to the petitioner despite the recommendations of the authorities."

The petitioner has filed supplementary affidavit stating therein that the gun licence has been issued in respect of Udham Singh Nagar district alone. The counsel for the petitioner has submitted that the issue of the gun licence cannot be restricted to one District alone. Once the gun licence has been applied, the provisions of Arms Act, itself does not make any restriction in respect of the district. Section 13 of the Arms Act 1959, provides grounds of licence on an application in the form prescribed under Chapter II of the Act. Sub section (3) of the Act, provides as under:

(3) The licensing authority shall grant-

(a) a licence under section 3 where the licence is required-

(i) by a citizen of India in respect of a smooth bore gun having a barrel of not less than twenty inches in length to be used for protection or sport or in respect of a muzzle loading gun to be used for bona fide crop protection:

Provided that where having regard to the circumstances of any case, the licensing authority is satisfied that a muzzle loading gun will not be sufficient for crop protection, the licencing authority may grant a licence in respect of any other smooth bore gun as aforesaid for such protection, or

(ii) in respect of a point 22 bore rifle or an air rifle to be used for target practice by a member of a rifle club or rifle association licensed or recognized by the Central Government;

(b) a licence under Section 3 in any other case or a licence under section 4, Section 5, Section 6, Section 10 or Section 12, if the licensing authority is satisfied that the person by whom the licence is required has a good reason for obtaining the same.

Rule 4, of the Arms Rules 1962 provides as under:

4. Licensing Authority and forms of Licenses- *Licences under Chapter II of the Act may be granted or renewed for such purposes, by such authorities, in such forms and to be valid for such period and in such areas as are specified in Schedule II subject to such conditions as are specified in that Schedule and in the licence:*

The licence has already been granted to the petitioner on 20.11.2001. Now the grievance of the petitioner is that the District Magistrate has issued the licence valid for District Udham Singh Nagar while there should be no restriction of area for granting gun licence.

In view of the aforesaid fact, liberty is given to the petitioner to move a representation before the respondent District Magistrate, Udham Singh Nagar, within 15 days after obtaining the certified copy of this order, who shall decide the same with within six weeks thereafter.

Subject to the aforesaid observation, the writ petition is disposed of.

(Rajesh Tandon J.)

25.9.2004
*Dhyani